

**§ 37.52 Records.**

The permittee shall keep accurate and complete records relating to its exploratory activities and to all data and information, including, but not limited to, raw, processed, reprocessed, analyzed and interpreted data and information, obtained as a result thereof. Until September 2, 1989, the Secretary shall have access to and the right to examine and reproduce any records, papers, or other documents relating to such activities, data and information in order to ascertain the permittee's compliance with this part, ability to perform under any special use permit, and reliability and accuracy of all data, information and reports submitted to the Regional Director.

**§ 37.53 Submission of data and information.**

(a) The permittee shall submit to the Regional Director free of charge all data and information obtained as a result of carrying out exploratory activities. Such data and information include copies of all raw data and information and all processed, analyzed and interpreted data or information. The permittee shall, unless directed otherwise by the Regional Director, submit such data and information within 30 days after the end of the annual quarter during which they become available to it at every level of data gathering or utilization, *i.e.*, acquisition, processing, reprocessing, analysis, and interpretation.

(b) Each submission of geophysical data or information shall contain, unless otherwise specified by the Regional Director, the following:

(1) An accurate and complete record of each geophysical survey conducted under the permittee's permit, including digital navigational data, if obtained, and final location maps of all survey stations; and,

(2) All seismic data developed under the permit, presented in a format prescribed or approved by the Regional Director and of a quality suitable for processing.

(c) Processed geophysical information shall be submitted with extraneous signals and interference removed as much as possible, and presented in a format and of a quality suitable for in-

terpretive evaluation, reflecting state-of-the-art processing techniques.

(d) Processed, analyzed and interpreted data or information required to be submitted by the Act and this section shall include, but not be limited to, seismic record sections, and interpretations thereof; geologic maps, cross sections, and interpretations thereof; maps of gravitational and magnetic fields and interpretations thereof; and chemical or other analyses of rock samples collected on the refuge and interpretations thereof.

(e) Any permittee or other person submitting processed, analyzed and interpreted data or information to the Regional Director shall clearly identify them by marking the top of each page bearing such data or information with the words "PROCESSED, ANALYZED AND INTERPRETED DATA OR INFORMATION". All pages so marked shall be physically separated by the person submitting them from those not so marked, unless doing so will destroy the value or integrity of the data or information presented. In that event or in the event that an item is submitted which is not susceptible to marking by page, the document or item submitted will be accompanied by a summary identifying the location of all processed, analyzed and interpreted data or information which are not segregated or marked by page, and explaining the reasons therefore. All pages not marked with this legend, all other data and information not identified as bearing such data or information, and all other data and information incorrectly identified as bearing such data or information shall be treated as raw data and information and shall be made available to the public upon request in accordance with § 37.54(a). The Department reserves the right to determine whether any page or item is correctly identified as constituting processed, analyzed and interpreted data or information.

(f) If the permittee proposes to transfer any data or information covered by this section to a third party or the third party proposes to transfer such data or information to another third party, the transferor shall notify the Regional Director at least 10 days in advance and shall require the receiving

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third party, in writing, to abide by the obligations of the permittee as specified in this section as a condition precedent to the transfer of such data or information.

(g) Upon request by the Department, a permittee shall identify each person to whom the permittee has provided data and information pursuant to § 37.22(d)(3) and provide a description of the area to which such data and information pertain.

#### § 37.54 Disclosure.

(a) The Department shall make raw data and information obtained as a result of carrying out exploratory activities and submitted by the permittee or a third party available to the public upon submittal to the Congress of the report required by subsection (h) of the Act in accordance with subsection (e)(2)(C) of the Act, this section, and the procedural requirements of the Freedom of Information Act, 5 U.S.C. 552, and 43 CFR part 2. The Department shall withhold from the public all processed, analyzed and interpreted data or information obtained as a result of carrying out exploratory activities and submitted by the permittee or a third party, if they have been properly marked and correctly identified in accordance with § 37.53(e), until 10 years after the submission of such data or information to the Regional Director or until 2 years after any lease sale including the area within the refuge from which such data or information were obtained, whichever period is longer, by invoking subsection (e)(2)(C) of the Act and exemption 3 to the Freedom of Information Act, 5 U.S.C. 552(b)(3). Thereafter, the Department shall treat such data or information as raw data and information. The Department shall make all other records, except exploration plans which must be published in accordance with § 37.22(b), submitted by a permittee or a third party relating to the activities covered by the Act and this part available to the public in accordance with the Freedom of Information Act, 5 U.S.C. 552, and 43 CFR part 2.

(b) The Department reserves the right to disclose any data and information obtained as a result of carrying

out exploratory activities and submitted by a permittee or a third party and any other information submitted by a permittee or a third party which may be exempt from public disclosure under the Freedom of Information Act, 5 U.S.C. 552, to an agent or third party in order to carry out the Department's statutory authorities. When practicable, the Department shall notify the permittee who provided the data or information of its intent to disclose the data or information to an agent or third party. Prior to any such disclosure, the recipient shall be required to execute a written commitment not to transfer or to otherwise disclose any data or information to anyone without the express consent of the Department. The recipient shall be liable for any unauthorized use by or disclosure of such data or information to other third parties.

(c) The Department reserves the right to disclose upon proper request any processed, analyzed and interpreted data and information and any other confidential information to the State of Alaska, to the Congress and any committee or subcommittee of the Congress having jurisdiction over the refuge or this exploration program, and to any part of the Executive and Judicial Branches of the United States for official use. The recipient shall be responsible for maintaining the confidentiality of such data and information in accordance with the Act.

(d) Commercial use by any person of data or information obtained as a result of carrying out exploratory activities and disclosed pursuant to this section is prohibited. No person shall obtain access from the Department, pursuant to paragraph (a) of this section, to any data or information obtained as a result of carrying out exploratory activities and submitted by the permittee or a third party until such person provides the Department with a statement certifying that person's awareness of the prohibition contained in this paragraph and the disqualification stated in the first sentence of § 37.4(b).